

California High-Speed Rail Authority



RFP No.: HSR 14-32

**Request for Proposal for Design-Build
Services for Construction Package 4**

**Book II, Part B.20 – Verizon Master
Agreement**

MASTER AGREEMENT
 BETWEEN
 CALIFORNIA HIGH-SPEED RAIL AUTHORITY
 AND
 VERIZON CALIFORNIA INC.

PARTIES:

THIS AGREEMENT, entered into as of the date last written below (the “Agreement”) by and between the California High-Speed Rail Authority, an agency of the State of California, whose principal place of business and mailing address is 770 L Street, Suite 620 MS 3, Sacramento, California 95814, hereinafter referred to as the “Authority”, and Verizon California Inc., a California corporation whose principal mailing address is 201 Flynn Road, Camarillo, CA 93012 hereinafter referred to as the “Facility Owner” which term “Facility Owner” includes its officers, agents, contractors, representatives, employees, successors and assigns.

RECITALS:

WHEREAS, the Facility Owner owns, operates or maintains, in the State of California, Facilities as defined herein, of which certain Facilities may be operated under regulations of the California Public Utilities Commission; and

WHEREAS, Authority is currently engaging in a program that has various projects under current provisions of Section 2704.04 of the Streets & Highways Code and Sections 185030 and 185511 of the Public Utilities Code throughout the State of California identified as the California High-Speed Rail Projects (the “HSR Project”), as defined herein, and from time to time the HSR Project involves Relocation, as defined herein, of the Facilities; and

WHEREAS, the HSR Project will be built in multiple phases; and

WHEREAS, this Agreement is limited to the Merced to Fresno and Fresno to Bakersfield project sections of the HSR Project in the Central Valley, portions of which may be referred to as Construction Package 1 (CP1), CP2-3, CP4, CP5, and CP Wye; and

WHEREAS, the Authority and the Facility Owner desire to enter into an agreement which establishes the contractual terms and conditions applicable to the Relocation of the Facilities.

NOW AND THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the Facility Owner agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms have the following meanings:

- 1.1. Authority’s Contractor.** “Authority’s Contractor” means a company, joint venture, partnership, limited liability company, or person that enters into a contract with the Authority for the performance of Facility Work or any other work.

- 1.2. Betterment.** “Betterment” shall mean any upgrading of a replacement Facility that is made solely for the benefit of and at the election of the Facility Owner, including an increase in the capacity, capability, level of service, efficiency, duration or function of the replacement Facility over that which was provided by the existing Facility; provided, however, that the following are not considered Betterments in such cases:

Any upgrading necessary for safe and effective construction of the HSR Project; replacement devices or materials that meet equivalent standards although they are not identical; replacement devices or materials no longer regularly manufactured with the next highest grade or size; any upgrading required by applicable laws; replacement devices or materials which are used for reasons of economy (e.g. non-stocked items may be uneconomical to purchase); or any upgrading required by the Facility Owner’s applicable standard specifications, standards of practice and construction methods applied to comparable facilities constructed by or for the Facility Owner at its own expenses, which are in effect as of the date of execution of the applicable Utility Agreement/Task Order.

- 1.3. Days.** “Days” means calendar days, unless otherwise stated.

- 1.4. Facility.** “Facility” or “Facilities” means a line, facility or system for transmitting or distributing communications, cable television, power, electricity, gas, oil, crude products, water, steam, sewage, waste, storm water or any other similar commodity that directly or indirectly serves the public, including any irrigation system and any fire or police signal system owned and operated by the Facility Owner. The necessary appurtenances to each Facility (including fire hydrants as appurtenances to water lines and drainage basins for storm water lines) shall be considered part of such Facility.

- 1.5. Facility Work.** “Facility Work” means all services, labor, materials, and other efforts to be provided and performed including the following general categories: scheduling, facility relocation, demolition, permitting, survey, geotechnical, design, environmental mitigation, construction, quality control, and quality assurance for design and construction, community relations, quality inspection and testing, construction safety and security program, systems testing, preparation of CADD As-Builts, coordination with jurisdictional authorities (governments, public and private entities), facility companies, railroad companies, and local communities, and other efforts necessary or appropriate to complete the design and construction required for relocation of Facilities or construction of new Facilities in conjunction with the HSR Project.

- 1.6. Hazardous Material.** “Hazardous Material(s)” means any hazardous substance, hazardous material, or hazardous waste as defined under state or federal law and/or any substance, material, waste or other material of any nature whatsoever which may give rise to liability under state or federal law.

- 1.7. High-Speed Rail Property.** “High-Speed Rail Property” means any real property or an interest therein, including any right-of-way, previously or hereafter acquired by the Authority.

- 1.8. HSR Project.** “HSR Project” means the development and implementation of intercity high-speed rail service throughout the State of California as defined under provisions of Sections 2704 et seq. of the Streets and Highways Code and Sections 185030 et seq. of the Public Utilities Code.

- 1.9. Notice to Owner.** “Notice to Owner” means written notice from the Authority to the Facility Owner for the Relocation of Facilities, demanding the Facility Owner to remove, protect, alter, replace, reconstruct, support, or any other rearrangement or modification, the specifically identified Facilities to accommodate a particular segment of the proposed HSR Project.

- 1.10. Partners/Stakeholders.** “Partners”/“Stakeholders” means cities, counties, the Authority, the Authority’s Contractor, and any other third party entities affected by the HSR Project, including regulatory agencies, local agencies, and public and private facility owners.
- 1.11. Party.** “Party” refers to the Authority or the Facility Owner, as the context may require and “Parties” means the Authority and the Facility Owner, collectively.
- 1.12. Railroad Right-of-Way.** “Railroad Right-of-Way” means the right-of-way of any rail line, except for High-Speed Rail right-of-way.
- 1.13. Relocation.** “Relocation” means alteration, removal, relocation, replacement, reconstruction, support, abandonment, protection or any other rearrangement of Facilities that are necessary in order to accommodate or permit construction of the HSR Project.
- 1.14. Right-of-Way of Facility Owner.** “Right-of-Way of Facility Owner” means a property right held by the Facility Owner in the form of a property right held by the Facility Owner that has been acquired through a prescriptive easement, a recorded or fully executed deed or easement in the usual form or other recorded or fully executed valid instrument that conveys a permanent property right to the Facility Owner for the Facility to be located in a defined area of real property, including but not limited to a defined area within High-Speed Rail Property that is subject to a recorded Joint Use Agreement (JUA) or Consent To Common Use Agreement (CCUA) or any other right held by the Facility Owner to occupy the Right-of-Way, private or public.
- 1.15. Utility Agreement/Task Order.** “Utility Agreement”/“Task Order” means an agreement between the Authority and the Facility Owner or between the Authority, the Authority’s Contractor, and the Facility Owner, authorizing and providing for the performance of specific work and/or services and/or the purchase of materials and equipment. Any such Utility Agreement or Task Order between the Parties hereto shall be subject to this Agreement.

2. Point of Contact

All inquiries during the term of this Agreement will be directed to the project representatives identified below:

| AUTHORITY | FACILITY OWNER |
|---|---|
| Contract Manager: Terry Ogle | Project Manager: Albert Aleman |
| Address: 1401 Fulton Street Suite 200 Fresno, CA 93721 | 201 Flynn Road- CAM38FTP Camarillo, CA 93012 |
| Phone: (559) 283-1177 | Phone: (805) 388-2219 |
| Fax: | Fax: |
| e-mail: terry.ogle@hsr.ca.gov | e-mail: albert.aleman@verizon.com |

3. SCOPE OF WORK

3.1. Work to be Completed

The work actually performed under this Agreement shall be all work necessary to accomplish Relocation of existing Facilities as necessitated by the Authority’s HSR Project.

A. Facility Work

Facility Work specific to a particular Facility's Relocation shall be detailed in subsequently executed Utility Agreement(s)/Task Order(s).

B. Utility Agreement/Task Order

For each Relocation, the Authority and the Facility Owner or the Authority, the Authority's Contractor, and the Facility Owner shall enter into a project specific Utility Agreement/Task Order setting forth, among other things, scope of work, schedule, cost, cost apportionment, billing, payment, documentation, documentation retention, accounting and coordination as it relates to Facility Work. Format of the Utility Agreement/Task Order and its content shall be mutually agreed upon by the Parties. Any such Utility Agreement or Task Order between the Parties hereto shall be subject to this Agreement.

C. Betterment

Any work considered Betterment shall be agreed upon in advance by the Parties and detailed in a Utility Agreement/Task Order along with costs and allocation of responsibility for such costs to the Facility Owner.

3.2. Performance of Work

All Facility Work or portion thereof may be performed by the Facility Owner or its designated contractor or the Authority at the election of the Facility Owner. Specific procedures that shall be followed in performance of Facility Work, along with costs and division of responsibility for cost, for the various portions of Facility Work shall be detailed in a Utility Agreement/Task Order for that work. Notwithstanding anything to the contrary, the determination of the disposition of the Facility, whether rearrangement, relocation, or protection in place, shall also be mutually agreed upon in a Utility Agreement/Task Order.

A. Authority Performs Work

If the Facility Owner elects to have the Authority perform Facility Work, the Authority shall submit plans for such work to the Facility Owner for the Facility Owner's approval. The Authority may not perform any work affecting Facilities without the approval of such plans by the Facility Owner.

All Relocations involving the Facility Owner shall, at a minimum, allow adequate access for people, vehicles and equipment, outside of the access controlled High-Speed Rail Property to be able to safely perform maintenance, installation and repair of the Facilities after Relocation. Such access shall be mutually approved by the Parties.

The Facility Owner shall have reasonable access during all phases of the Facility Work for the purpose of inspection and monitoring to ensure that the Facility Work is being completed in accordance with the approved plans and the Facility Owner's standards and specifications.

The Facility Owner's inspector shall comply with all of the Authority's safety policies and procedures while on any HSR Project construction site. If the Facility Owner's inspector identifies any construction activity that, in the opinion of the inspector, could jeopardize the integrity of the Facilities or cause an unsafe or hazardous condition, said inspector shall immediately identify his observations and concerns to the Authority and/or the Authority's Contractor. The Authority's Contractor is required to provide for the protection of the

lives and health of personnel and prevent damage to property including taking prompt corrective action. The Authority will be responsible for all costs associated with such protection.

The Authority shall submit a written notice of substantial completion of Facility Work to the Facility Owner prior to the completion of the Facility Work.

Upon the Facility Owner's receipt of the substantial completion notice, the Facility Owner may inspect the Facility Work to determine whether such work complies with the approved plans, Facility Owner's standards or industry standards. If Facility Owner determines that the Facility Work is not complete, it shall promptly provide the Authority a written statement describing the incomplete Facility Work and what reasonable measures or acts will be necessary to complete such Facility Work.

Upon notice from the Authority or the Authority's Contractor and the Facility Owner's concurrence that Facility Work is complete as described above, the Facility Owner shall accept ownership and maintenance of the Facilities. The Authority shall transfer, assign, or otherwise provide a warranty for Facility Work, to include: (i) the Facility Work conforms to the requirements of the approved plans; (ii) all design for Facility Work shall conform to all professional engineering principles generally accepted as standards of the industry in the State of California, shall be suitable for its intended purpose and shall be free of errors, omissions, inconsistencies, inaccuracies, deficiencies or other defects; (iii) all materials and equipment furnished as part of Facility Work are of good quality; and (iv) all Facility Work was performed in a workmanlike manner and conforms to the standards of care and diligence normally practiced by recognized construction firms performing construction of a similar nature in the State of California. The warranty excludes remedies for damage or defect caused by abuse, modifications not executed by the Authority or the Authority's Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage by the Facility Owner.

Without limitations of any other rights or remedies of the Facility Owner, if any defect in the Facility Work in violation of the foregoing warranty arises within twelve (12) months after the date of the Facility Owner's approval of completion of Facility Work, the Authority's Contractor or the Authority shall, upon receipt of written notice of such defect and verification of such defect by a reasonable Authority inspection, remedy at its own expense, any failure to conform to the warranty set forth in Section 3.2(A).

B. Facility Owner Performs Facility Work

If the Facility Owner elects to perform Facility Work, the Facility Owner agrees to provide and furnish all necessary labor, materials, tools, and equipment required, and to execute said work diligently to completion and to: (i) perform work with its own forces, or (ii) cause the work to be performed by a contractor, employed by the Facility Owner pursuant to a written contract, or (iii) cause the work to be performed through a contract with a qualified bidder, selected pursuant to a valid competitive bidding procedure to perform work of this type.

Upon the issuance of a Notice to Owner, or as otherwise agreed upon in the specific Utility Agreement/Task Order, the Facility Owner shall diligently undertake, or cause to be undertaken, the Facility Work in accordance with the agreed upon schedule.

The Facility Owner shall submit a written notice of completion of Facility Work to the Authority within thirty (30) days of the completion of the Facility Work.

C. Criteria for Inspection for Work Performed by the Authority

In addition to any other inspection or protection rights hereunder the Parties agree as follows:

For excavation within ten feet of Facilities, additional protective measures will be implemented by the Authority to protect Facility. The Facility Owner and the Authority will coordinate regarding necessary protective measures. The Facility Owner shall perform full time inspection during construction activities.

The Authority is to provide the Facility Owner at least forty-eight (48) hour notification prior to any construction within ten (10) feet of Facilities.

In addition, the Authority will provide protection of Facilities in conformance with the Authority's standards and the practices of the Facility Owner, whichever standard is higher. Nevertheless, the Parties may agree to any other protection arrangement in a specific Utility Agreement/Task Order.

3.3. Partnering/Stakeholder Collaboration

In signing this Agreement, the Facility Owner agrees to collaborate with the Authority, the Authority's Contractor (if applicable), and any other affected third-party entities, including regulatory agencies, local agencies, and other facility owners, hereinafter referred to as "Partners"/"Stakeholders", to identify collaborative methods for resolving issues that may arise as part of the Facility Work.

Stakeholders/Partners will attend an initial kick-off workshop as well as subsequent periodic meetings as scheduled throughout the duration of the HSR Project. During the initial workshop, Stakeholders/Partners will develop procedures and agreements (including Utility Agreement(s)/Task Order(s)) as specified in Attachment 1, "PARTNERING/STAKEHOLDER COLLABORATION," incorporated herein, facilitating the collaborative relationship and aid in identifying and resolving issues as they arise.

Reimbursement to the Facility Owner for the cost of participation in the initial workshop and subsequent partnering/stakeholder meetings shall be made by either the Authority or the Authority's Contractor, to be determined by the Authority.

4. LIABILITY AND PAYMENT FOR WORK

4.1. Liability

A. Unless otherwise agreed to, liability for the cost of Facility Work shall be determined as follows:

- i. When the Authority requires the Facility Owner to remove any Facility lawfully maintained in any High-Speed Rail Property to a location entirely outside High-Speed Rail Property, the Authority shall pay the reasonable and necessary cost of the removal. This includes both the cost of removal and the cost of Relocation to a new location outside of the High-Speed Rail Property.

- ii. When the Authority requires the Facility Owner to remove any Facility lawfully maintained outside High-Speed Rail Property to another location entirely outside High-Speed Rail Property, the Authority shall pay the reasonable and necessary cost of removal. This includes the cost of removal and the cost of Relocation to a new location outside of the High-Speed Rail Property.
 - iii. When the Authority requires the Facility Owner to remove any Facility and Relocate from one point in High-Speed Rail Property to another point in that property, including Relocation in any service road of the High-Speed Rail Property or from one point of crossing of the High-Speed Rail Property to another reasonable point of crossing, the Authority shall pay the reasonable and necessary cost of the removal and Relocation. This includes both the cost of removal and the cost of Relocation to a new location inside of the High-Speed Rail Property.
 - iv. The Authority shall pay the cost of removal and the cost of Relocation to another point in High-Speed Rail Property.
 - v. The Authority shall pay for all replacement right-of-way costs pursuant to Section 6.3.
 - vi. The Authority shall pay for all costs for plan review and inspection by the Facility Owner.
- B. The Facility Owner will produce documentation of Right-of-Way of Facility Owner where its Facility is located to the degree that the Facility Owner can find such records. For a claim of a prescriptive easement, the Facility Owner shall provide normal and ordinary business records to demonstrate installation, maintenance and/or use of the Facility for a period of five (5) years or greater or the Facility Owner shall provide the Authority with a signed prescriptive rights letter that it has acquired a prescriptive easement under Cal. Code Civ. P. § 318 and Cal Civ. Code § 1007. Nevertheless, the Authority will not condition payment to the Facility Owner in the event no documentation can be found. The Facility Owner will be liable for Facility Work only where Facility Work is a Betterment.

4.2. Cost of Facility Work

If the Authority has cost liability, then reimbursable costs shall be the costs of actual and necessary Facility Work including reasonable and actual indirect and overhead charges attributable to that work, and any necessary new private Facility right-of-way required to perpetuate existing rights involved in the Relocation, except:

- A. The Authority shall be entitled to credits as follows:
 - i. The amount of any Betterment.
 - ii. The salvage value of any materials or parts salvaged and retained by the Facility Owner at its election. The Facility Owner is not required to salvage any materials.
 - iii. If a new Facility or portion thereof is constructed to accomplish such Relocation, an amount bearing the same proportion to the original cost of the displaced facility or portion thereof as its age bears to its normal expected life. Notwithstanding the foregoing, credit for accrued depreciation shall not be required for any segment of the Facility Owner's service, distribution, or transmission lines or conduits and for any Facilities related to such.

$$\text{Credit} = \frac{\text{Age of facility}}{\text{Normal expected life}} \times \text{Original cost}$$

4.3. Hazardous Materials

Upon discovery of Hazardous Material in connection with the Relocation, both the Facility Owner and the Authority shall immediately confer to explore all reasonable alternatives and agree on a course of action. The Authority will pay, in its entirety, those costs for additional necessary effort needed to comply with existing statutes or regulations concerning the disposition of Hazardous Material found as a consequence of that Relocation, unless such conditions are attributable to the Facility Owner's existing installation or operation. Any necessary remediation will be performed by the Authority.

Each Party to this Agreement retains the right to pursue recovery of its share of any such Hazardous Material related costs from the other Party or third parties in accordance with law.

5. DISPUTES

The Authority and the Facility Owner agree that, as a general principle, the Parties shall identify and engage in measures to prevent and resolve potential sources of conflict before they escalate into disputes through a process involving partnering, collaboration and cooperation, which shall attempt to identify and resolve potential disputes without resort to formal legal process. Such process shall include establishing for each phase of the HSR Project impacting Facilities a hierarchy of individuals within each Party's organization to whom issues may be addressed as they arise in order to resolve such issues before they are elevated to the next level in the hierarchy, and periodic meetings at the request of either Party to review the ongoing status of the HSR Project and the Facility Work.

In the event the Facility Owner disagrees with a determination or direction made by the Authority in connection with the Facility Work, the Facility Owner shall provide written notice of its objection to the Authority, including the reasons for such objection. Thereafter, the Parties shall attempt to resolve the potential dispute through the partnering process, which may include escalation through the hierarchy established for the partnering process, at either Party's request. If the dispute persists after the conclusion of such partnering, then the Facility Owner may request a written statement from the Authority concerning its decision. The request shall clearly state, and in detail, the basis for the objection, a statement of the facts asserted, and the nature and amount of the costs involved. The Authority shall provide written notice of such decision, including a copy to the Facility Owner. The Authority's failure to provide a written decision within ten (10) business days after the request shall be deemed denial of the Facility Owner's objection. If the dispute remains after such decision, then either Party may refer the dispute to binding arbitration.

If either Party elects to refer a dispute to binding arbitration, then within thirty (30) days after such election to arbitrate, the Parties will seek to appoint a panel of three arbitrators with not less than ten (10) years of experience each in complex construction disputes involving public works transportation projects. If the Parties cannot agree on a panel of three (3) arbitrators, then each Party shall appoint one (1) arbitrator, with the two (2) so selected choosing the third (3) arbitrator; in each instance, such arbitrator shall meet the relevant qualifications. The arbitration proceeding shall be conducted in accordance with the procedures specified in California Public Contract Code Section 10240 et seq. and the implementing regulations thereto. The decision of the arbitrators

shall be binding on the Parties and any judgment on the award there rendered may be entered in the Superior Court for Sacramento County. Each Party to pay its own arbitration costs.

If it is determined, after arbitration, that the Authority's interpretation of this Agreement, direction to the Facility Owner, or any other action required by the Authority's decision was an erroneous determination of the rights and obligations of the Parties under this Agreement, the Facility Owner's claim and any award by resolver of the dispute shall be limited to the incremental costs incurred by the Facility Owner with respect to the disputed matter as a direct result of such erroneous determination (crediting the Authority for any corresponding reduction in the Facility Owner's other costs) and shall in no event exceed the amounts allowed herein with respect thereto.

At all times during the course of the dispute resolution process, the Facility Owner shall continue with or permit the continuance of the Facility Work as directed, in a diligent manner, and without delay; shall conform to any of the Authority's responses, decisions, or orders; and shall be governed by all applicable provisions of this Agreement. Records of the Facility Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in this Agreement irrespective of the ultimate outcome of any dispute.

6. GENERAL CONDITIONS

6.1. Default

In the event that the Authority breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement or by law, the Facility Owner may pursue a claim for damages or an action in equity, including, but not limited to, specific performance.

In the event that the Facility Owner breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement or by law, the Authority may pursue a claim for damages suffered by the Authority or an action in equity, including, but not limited to, specific performance.

6.2. Termination

Either Party, upon six (6) month's written notice, may terminate this Agreement, except that, notwithstanding that termination, the provisions of this Agreement shall remain in full force and effect with respect to any Relocation of Facilities required under a Utility Agreement/Task Order/Notice to Owner issued prior to the Agreement termination.

6.3. Affected Facility and Right of Way

Whenever affected Facilities will remain within the existing Right-of-Way of Facility Owner and these Facilities will fall within the High-Speed Rail right-of-way, the Authority and the Facility Owner shall execute a Consent to Common Use Agreement in a form to be agreed by the Parties.

Whenever affected Facilities will be relocated from the existing Right-of-Way of Facility Owner to a new location that falls outside such existing Right-of-Way of Facility Owner and not in public right of way, the Authority shall acquire a new right-of-way for such relocated Facilities as will correspond to the existing Right-of-Way of Facility Owner. For such Relocations, the Authority shall issue, or cause to be issued, to the Facility Owner, without cost to the Facility Owner, appropriate replacement rights in the new location mutually acceptable, in both form and location, to both the Authority and the Facility Owner for those rights previously held by the

Facility Owner in its existing right-of-way. In discharge of the Authority's obligations under this Paragraph, in the event that the new location falls within the High-Speed Rail right-of-way, the Authority and the Facility Owner shall execute a Joint Use Agreement for joint use of said new area in a form to be agreed by the Parties. In consideration for these replacement rights being issued by the Authority, the Facility Owner shall subsequently convey to the Authority, or its nominee, within the Authority's right-of-way, all of its corresponding right, title and interest within the Facility Owner's existing private right-of-way so vacated, except to the degree any of such right-of-way is still necessary for the Facility Owner's use.

If the existing Right-of-Way of Facility Owner includes fee title, the Authority shall acquire from the Facility Owner, for just compensation under State law, those property rights required by the Authority for the public railway by separate transaction, leaving to the Facility Owner those remaining property rights appropriate for the placement and operation of Facilities in the Right-of-Way of Facility Owner. If the remaining rights of the Facility Owner in such fee property are not sufficient, the Authority shall pay for whatever additional right-of-way is necessary.

Whenever the Facility Owner's affected Facilities are to be relocated into public right-of-way, the Facility Owner will exercise its existing rights to occupy the public right-of-way; however, if the Facility Owner cannot obtain such rights for any reason, the Authority shall obtain such right-of-way as is necessary to properly relocate the Facility Owner. The Facility Owner shall not be obligated to place affected Facilities in public right-of-way if the Facilities are in any form of private right-of-way before relocation.

6.4. Applicability

Except as otherwise provided in this Agreement, this Agreement applies to the Relocation of Facilities to accommodate or permit construction of the HSR Project.

6.5. Modification

This Agreement may be amended, changed or altered by mutual consent of the Parties in writing.

6.6. Severability

Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

6.7. Time is of the Essence

Time shall be of the essence of this Agreement.

6.8. Successors and Assigns

This Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of the Parties.

6.9. Agreement Final Expression of the Parties

This Agreement constitutes the complete and final expression of the Parties with respect to the subject matter and supersedes all prior agreements, understandings, or negotiations.

6.10. Governing Law and Venue

This Agreement shall be governed by the laws of the State of California. Any provision herein found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions herein.

Venue for any action shall lie exclusively in Sacramento County, California pursuant to Public Utilities Code Section 185038.

6.11. Audits

The Facility Owner agrees that the Authority, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Facility Owner agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Facility Owner agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, The Facility Owner agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

6.12. Notices

All required notices may be sent by first class United States Mail, hand delivery, or express mail. Each Party shall have a continuing obligation to notify the other Party of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to FACILITY OWNER:

| | |
|-------------------|-------------------------|
| Verizon: | VERIZON CALIFORNIA INC. |
| Person in Charge: | Albert Aleman |
| Address: | 201 Flynn Road-CAM38FTP |
| | Camarillo, CA 93012 |

If to AUTHORITY:

| | |
|-------------------|--------------------------------------|
| Authority: | CALIFORNIA HIGH-SPEED RAIL AUTHORITY |
| Person in Charge: | Thomas Fellenz, Chief Counsel |
| Address: | 770 L Street, Suite 620 MS 1 |
| | Sacramento, CA 95814 |


6.13. State and Federal Grant Conditions

No State or Federal funds or resources are allocated or encumbered as against this Agreement and the Authority's obligations and duties expressed herein are conditioned upon sufficient funds being made available to the Authority by the California State Legislature or the United States Government for the purpose of the HSR Project.

The Parties agree that Utility Agreement(s)/Task Order(s) and other agreements requiring payment from the Authority may be subject to additional State and Federal requirements, all of which to be determined and agreed in advance in the Utility Agreement(s)/Task Order(s).

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective the day and year last written below.

VERIZON CALIFORNIA INC.:

By  _____ Date 7-27-2015
Albert Aleman
Manager-Ntwk Eng & Ops

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

By  _____ Date: 8-6-15
Scott Jarvis
Chief Engineer

ATTACHMENT 1: PARTNERING/STAKEHOLDER COLLABORATION

In order to effectively accomplish the HSR Project, a collaborative relationship will be formed as agreed to by Parties in Section 3.3 “PARTNERING/STAKEHOLDER COLLABORATION.” As part of this collaborative relationship, a cooperative management team will be developed to achieve a quality project within budget and on schedule. Collaboration is strongly encouraged in preference to formal dispute resolution and adjudication mechanisms. Collaboration in this context is intended to be mandatory, but non-binding. The identified procedures will be available for use by the Partners/Stakeholders to resolve issues that may arise during the performance of Facility Work.

1. INITIAL KICK-OFF WORKSHOP

In order to achieve effective and efficient completion of the HSR Project the Partners/Stakeholders agree to conduct a kick-off workshop where they will identify issues for resolution that are present or foreseeable and engage in joint problem solving and action planning on the issues identified.

At a minimum, during this workshop, participants will develop the following procedures and agreements to facilitate the collaborative relationship and aid in identifying and resolving issues as they may arise throughout the HSR Project:

“Issues Resolution Ladder” (IRL) – a hierarchy of those individuals within the HSR Project including the Partners/Stakeholders and extending across organizational boundaries to address issues as they arise to facilitate communication and address issues before those issues are elevated to the next ladder rung.

“Partnering/Stakeholder Implementation Plan” (PIP/SIP) – the intention of the PIP/SIP is to sustain the partnering/collaborative relationship after the kick-off meeting by establishing monthly or quarterly schedule of partnering/stakeholder meetings and any procedures necessary for the identification and resolution of any issues during the performance of the Facility Work to be addressed by the Partners/Stakeholders.

“Partner/Stakeholder Charter” – the charter will express the vision for the project, a statement of mutual goals and positive behavior practices and will be a visual reminder of mutual commitment to the partner/stakeholder vision, goals and relationship. The charter will be signed by all Partners/Stakeholders.

2. PARTNERING/STAKEHOLDER MEETINGS

The purpose of the partnering/stakeholder meetings will be to evaluate the efficacy of the collaborative relationship and review its processes as necessary to improve or correct any procedures/practices and efficiently identify and resolve the issues.

ATTACHMENT 2: PERFORMANCE OF FACILITY WORK

If the Facility Owner elects to have the Authority perform any Facility Work, the Authority shall use Golden State Utility, SECC Corp or Tidwell Excavating to perform all design and construction services for the Facility Work, unless otherwise agreed to in a Utility Agreement/Task Order by the Parties. If these three entities are unavailable, unable to complete the work within the required timeframes or the Authority's Contractor is unable to reach reasonable terms with the entity, the Authority's Contractor may propose alternative comparable firms, including the Authority's Contractor, to perform the Facility Work subject to the Facility Owner's written approval.

1. Golden State Utility
8766 Fruitridge Road
Sacramento, CA 95826
(916) 387-6255
2. SECC Corp (Corporate Office)
14945 La Palma Drive
Chino, CA 91710
(909) 393-5419
3. Tidwell Excavating
1691 Los Angeles Ave.
Ventura, CA 93004
(805) 647-4707